

(subparts D and E of this part) with a Board member, or with a Board employee assigned to the proceeding, is not permitted.

#### §41.12 Citation of authority.

(a) Citations to authority must include:

(1) *For any United States Supreme Court decision*, a United States Reports citation.

(2) *For any decision other than a United States Supreme Court decision*, parallel citation to both the West Reporter System and to the United States Patents Quarterly whenever the case is published in both. Other parallel citations are discouraged.

(3) *Pinpoint citations* whenever a specific holding or portion of an authority is invoked.

(b) Non-binding authority should be used sparingly. If the authority is not an authority of the Office and is not reproduced in one of the reporters listed in paragraph (a) of this section, a copy of the authority should be filed with the first paper in which it is cited.

#### §41.20 Fees.

(a) *Petition fee*. The fee for filing a petition under this part is \$400.00.

(b) *Appeal fees*. (1) For filing a notice of appeal from the examiner to the Board:

By a small entity (§1.27(a) of this title)—\$250.00.

By other than a small entity—\$500.00.

(2) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:

By a small entity (§1.27(a) of this title)—\$250.00.

By other than a small entity—\$500.00.

(3) For filing a request for an oral hearing before the Board in an appeal under 35 U.S.C. 134:

By a small entity (§1.27(a) of this title)—\$500.00.

By other than a small entity—\$1,000.00.

[69 FR 50003, Aug. 12, 2004, as amended at 69 FR 52606, Aug. 27, 2004; 69 FR 55506, Sept. 15, 2004; 69 FR 56546, Sept. 21, 2004; 70 FR 3892, Jan. 27, 2005]

### Subpart B—*Ex Parte* Appeals

#### §41.30 Definitions.

In addition to the definitions in §41.2, the following definitions apply to proceedings under this subpart unless otherwise clear from the context:

*Applicant* means either the applicant in a national application for a patent or the applicant in an application for reissue of a patent.

*Owner* means the owner of the patent undergoing *ex parte* reexamination under §1.510 of this title.

*Proceeding* means either a national application for a patent, an application for reissue of a patent, or an *ex parte* reexamination proceeding. Appeal to the Board in an *inter partes* reexamination proceeding is controlled by subpart C of this part.

#### §41.31 Appeal to Board.

(a) *Who may appeal and how to file an appeal*. (1) Every applicant, any of whose claims has been twice rejected, may appeal from the decision of the examiner to the Board by filing a notice of appeal accompanied by the fee set forth in §41.20(b)(1) within the time period provided under §1.134 of this title for reply.

(2) Every owner of a patent under *ex parte* reexamination filed under §1.510 of this title before November 29, 1999, any of whose claims has been twice rejected, may appeal from the decision of the examiner to the Board by filing a notice of appeal accompanied by the fee set forth in §41.20(b)(1) within the time period provided under §1.134 of this title for reply.

(3) Every owner of a patent under *ex parte* reexamination filed under §1.510 of this title on or after November 29, 1999, any of whose claims has been finally (§1.113 of this title) rejected, may appeal from the decision of the examiner to the Board by filing a notice of appeal accompanied by the fee set forth in §41.20(b)(1) within the time period provided under §1.134 of this title for reply.

(b) The signature requirement of §1.33 of this title does not apply to a notice of appeal filed under this section.

(c) An appeal, when taken, must be taken from the rejection of all claims